1897

SUPREME COURT OF THE UNITED STATES.

No. 217.

THE UNITED STATES, APP'TS,

vs.

AGUSTIN OLVERA, LUIS JORDAN, VICENTE BOTELLER, AND J. LANCASTER BRENT.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF CALIFORNIA.

"Los Alamos y Agua Caliente."

INDEX.

	Original.	Print.
Proceedings of board of commissioners	1	1
Petition	5	2
Deposition of F. Lassiz	7	3
" A. Stearns	9	3
" J. M. Covarrubias	10	4
Map	11	4
Espediente	12	5
Map	16	6
Translation	25	9
Conveyance to Olvera	37	15
B, translation	41	17
H. H. No. 2	43	18
D, translation	45	19
Deed	47	19
Opinion	51	21
Decree	53	22
Certificate	55	22
Appeal	56	23
Summons	60	25
Answer	62	25
Deposition of A. Pico	66	26
Decree	78	33
Appeals	80	33
Clerk's certificate	82	34

1899

1 *Transcript of the proceedings in case No. 428.*

AGUSTIN OLVERA *et al.*, claimants, *vs.* THE UNITED STATES, defendants. } For the place named "Alamos y Agua Caliente."

3 OFFICE OF THE BOARD OF COMMISSIONERS FOR ASCERTAINING AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this twenty-ninth day of October, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of Agustin Olvera *et al.* for the place named "Los Alamos y Agua Caliente," was presented and ordered to be filed and docketed with No. 428, and is as follows, to wit:

(Vide page 3 of this transcript.)

Upon which petition the following subsequent proceedings were had, in their chronological order, to wit:

LOS ANGELES, *November 6th*, 1852.

In case No. 428, Agustin Olvera *et al.* for the place named "Los Alamos y Agua Caliente," the deposition of Francisco Lopez, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, was filed.

(Vide page 5 of this transcript.)

LOS ANGELES, *November* 13, 1852.

In the same case the deposition of Abel Stearns, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, with documents marked H. H. Nos. 1, 2, and 3, and translations annexed thereto, was filed.

(Vide page 6 of this transcript.)

4 SAN FRANCISCO, *Oct.* 13, 1853.

In the same case the deposition of José Ma. Covarrubias, a witness in behalf of the claimants, taken before Commissioner Thompson Campbell, was filed.

(Vide page 7 of this transcript.)

SAN FRANCISCO, *May 2d*, 1854.

On motion of the counsel for the claimants, case No. 428 was ordered to be placed at the foot of the calendar of the 1st-class cases on the trial docket.

SAN FRANCISCO, *July* 25, 1854.

Case No. 428 was submitted on briefs on both sides.

SAN FRANCISCO, *Aug't* 15, 1854.

In the same case Commissioner Alpheus Felch delivered the opinion of the board rejecting the claim.

(Vide page 43 of this transcript)

On motion of the U. S. law agent, the following order was made, to wit:

(Vide page 45 of this transcript.

5 *Petition.*

To the honorable board of commissioners to ascertain and settle the private land claims of California:

The petition of Agustin Olvera, Luis Jordan, Vicente Boteller, and J. Lancaster Brent, all of Los Angeles county, respectfully shows that they claim in fee a certain tract of land situate in said county, known by the name of Los Alamos y Agua Caliente, consisting of six square leagues, more or less.

They further show that many years previous to 1845 the said tract of land, or a portion thereof, was conditionally granted to one Pedro C. Carrillo; that the said Carrillo having failed to comply with the conditions annexed to his grant of occupation and improvement of the land, it was denounced by the said Luis Jordan and the said Vicente Boteller, and by one Francisco Lopez.

That the said Carrillo was notified of the said denunciation and allowed seven months to comply with the conditions of his grant, and upon his failure so to do, with his own consent, the denunciation was to become effective; and he in part so failing, the said tract was declared so forfeited, and was conceeded by Pio Pico, constitutional governor of the department of the Californias, in virtue of authority in him vested to the said Francisco Lopez, Vicente Botello, and Luis Jordan, by a grant bearing date 27th May, 1846, which said grant has been approved by the departmental assembly.

They further show that juridical possession of said land was never given, because of the breaking out of war with the United
6 States, but that the land was occupied by the grantees, crops raised, and stocks placed thereon, and a house built, and that it now is, and has ever been since the said grant, in the possession of the original grantees and their representatives, and that they know of no conflicting claim, either by virtue of title or bare possession.

Your petitioners further show that in 1854 the said Francisco Lopez died childless, leaving his property to his father, Francisco Lopez, and to his mother, Ma. Anta. Felis de Lopez, who in the month of October, 1852, sold their right to the said tract of land to Agustin Olvera; and that in October, 1852, the said Luis Jordan sold one-half of his right to said land to the said J. Lancaster Brent.

They herewith submit the original grant, marked "A," and its translation, marked B, a certified copy of the original map, marked E, the decree approving the denunciation, marked C, and its translation, marked D; and they rely on the same and such other and further documentary and verbal testimony as they may be advised may be necessary.

Wherefore they pray the honorable board to confirm to them the said claim.

By their attorney, J. LANCASTER BRENT.

Filed in office October 29th, 1852.

GEO. FISHER, *Secretary*.

7 *Deposition of Francisco Lopez.*

LOS ANGELES, *November 6th*, 1852.

On this day, before Commissioner Hiland Hall, came Francisco Lopez, a witness in behalf of the claimants, Agustin Olvera *et al.*, petition No. 428, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. law (associate) agent was present.

In answer to inquiries by counsel for the claimants the witness testified as follows:

My name is Francisco Lopez; my age is fifty years; and I reside in the county of Los Angeles.

I know the place called Los Alamos and Agua Caliente. It is about fifteen leagues from this place, in a northerly direction.

Francisco Lopez went to the place and took tools with him, to establish a rancho, but in consequence of the war at the time Fremont came, he left his tools with Indians and went away. He did not cultivate the ground.

In answer to inquiries by the associate law agent the witness says:

I was afterwards sick, and Lopez did not go the place again, because of my sickness and his other engagements.

I do not know that the ground was ever cultivated. The said Lopez was my son. He died October 30th, 1851.

FRANCISCO LOPEZ.

8 Sworn and subscribed before me.

HILAND HALL, *Commissioner*.

Filed in office November 6th, 1852.

GEO. FISHER, *Secretary*.

9 *Deposition of Abel Stearns.*

LOS ANGELES, *November 13th*, 1852.

On this day, before Commissioner Hiland Hall, came Abel Stearns, a witness in behalf of the claimants, Agustin Olivera *et al.*, petition No. 428, and was duly sworn, his evidence being given in English.

The U. S. associate law agent was present.

In answer to the inquiries by claimants' counsel the witness testified as follows:

My name is Abel Stearns; my age, fifty-five years; and I reside at Los Angeles. A paper is shown me purporting to be a grant to Francisco Lopez, Louis Jordan, and Vicente Boteller, dated May 27th, 1846.

The signatures of Pio Pico and José Matias Moreno on said paper, with which I am acquainted, I believe to be genuine. Said paper is hereto annexed, and marked H. H. No. 1.

Another paper is shown me, purporting to be a certificate of denouncement, dated 27th May, 1846. The signature of José Matias Moreno to said paper I believe to be genuine. It is hereto annexed, and marked H. H. No. 2. He was acting as secretary at the date of the paper.

A paper is also shown me purporting to be a map with a certificate of José Matias Moreno upon it, without date.

I believe the signature of said Moreno on the paper to be genuine. Said paper is hereto annexed and marked H. H. No. 3.

ABEL STEARNS.

Sworn and subscribed before me.

HILAND HALL, *Commissioner.*

Filed in office 13th November, 1852.

GEO. FISHER, *Secretary.*

Deposition of José Maria Covarrubias.

OFFICE OF THE BOARD OF COMMISSIONERS, &c., &c.

This day, before Commissioner Thompson Campbell, came José Maria Covarrubias, a witness in behalf of claimants, Agustin Olvera *et al*, No. 428, who, after being duly sworn, deposed as follows:

What is your name, age, and place of residence?

My name is José Maria Covarrubias; I am forty-five years of age; and I reside in Santa Barbara.

Are you acquainted with the Lomeria de Castec and Porto Suello de Castec? If so, how long have you known them by that name?

I do know those places. I have been there twice in 1841 and 1842. They were then called by those names.

Associate law agent present.

J. M. COVARRUBIAS.

Sworn and subscribed before me this 13th day of October, A. D. 1853.

THOMPSON CAMPBELL, *Commissioner.*

Filed in office October 13th, 1853.

GEO. FISHER, *Secretary.*

(Here follows map, marked original, page 11)

12 [1 S. D. K.]—1846.

Espediente promovido por Don Franco. R. Lopez y socios denunciado el parage conocido con el Nombre de Alamos y Agua Caliente, año de 1845.—*No.* 560.

13 [2 S. D. K.]

[SEAL.]

ANGELES, *Agosto* 21 *de* 1845.
Pase al alcalde 1o de esta ciudad para que haciendo citacion à las partes de Don Pedro Carrillo le sea entregada esta solicitud à fui de que ale que lo que à su derecho convenga y concluido qe. sea venelva al gobierno.

PICO.

EXMO. SEÑOR GOBERNADOR:

Franco. R. Lopez, Luis Jordan y Vicente Batiller, Mejicanos por nacimiento, y residentes en esta capital ante V. E. respectuosamente y conforme haya lugar segun derecho nos corresponde, nos presentamos diciendo; Que en virtud de tener un numero considerable de bienes de campo que fomentar, y hallandonas puntu al mente necesitados de un numero until para que nuestros intereses puedan pernanecer reunidos, y adelantar en lo sucesivo, nos es de preciso necesidad un plorar a la bondad de V. E. afin de que se ——— [3 S. D. K.,] nos conceda el terreno conocido con el Nombre de las Alamos y Agua Caliente, el cual pertenece à la propriedad de Dn. Pedro Carrillo por justo titulo que se le libro por el Gobierno de este Departamento, y en virtud de haver faltado el Señor Carrillo el articulo 1a. del correspondiente despacho segun la ley previene, y que como hasta la fecha no lo ha cultivado; lo denunciamos como baldio que actual mente sehalla por tanto.

N. V. E.

[4 S. D. K.]

14 Rendidamente suplicamos el que admita esta mi solicitud y que curran las debidas informaciones atendiendo de que ellugar que petendinias nos estando de la necesidad que llevamas oho como tambien un bien general, de loitar rabas á los ranchos que continuamuite perjudican los indios ludiones, y de consigmente fabricár easa y poner algunos arbales putales parala munteneion, Dispensando el que vaya esta enpapel comun por no haber en este dugar del sello que corresponde favor de qué le viviran reconocidos, recibiendo de su notoria bondad, merced y gracia, jurando lo necessario, y no ser de maliciá, &rá.

Angeles, Agosto 21 de 1845.

FRAN'CO R. LOPEZ.
LEWIS JORDAN.
ARRUEGODE VICENTE BOTTELLER,
CAYETANO ARENAS.

[5 S. D K.]

ANGELES, *Agosto* 22 *de* 1845.

Consecuente á lo qué, disponé lá superioridad en el decreto marginal delsta instanciá, corran traslado á D Vedro corrillo pura qué dentro

de tres dias conteste lo qué á su derecho lonuengá, uso yo el juezto decreté mandé y firmé con los de asistenciá segun Dro.

VTE SANEHEZ.

Ass'a: LEONARDA COTA.
Ass'a: YG'O CORONEL.

15 En la fechá se corrio el traslado y se entrego al Sr. Carrillo el espediento en dos foys

(Here follows map, marked original, page 16.)

17 [7 S. D. K]

Sor. juez de ta justancia.

Pedro C. Carrillo residente lulsta ciudad ante V. con el respecto debido, y bajo los terminos mas conformes á derecho comparescá decienda. Qué contestando al traslado quá de supenor desporicion se ha servido V. correrme del espediente epromovido por los Senores Francisco Lopez y socios, relativo al denunciaroné el paragellamado Los almos y agna calicute, que me fué adjudicado enpopiedad debo hacersé presente; qué dhos deumciantes decentener unnumero considerable de bienes de campo y qué necesitan un terreno util para qué fuedan permanecer, remudos, no sé for juez de qué clasé seran esas bienés de campo, porqueés publico qué nueguno de los tres esproprietasio del nunero de vacas de vicutre que laley exigè para ser admitidas ensaliedudes de esta naturelazu por qué respeto al numero

[8 S. D. K.]

no se hasta hoy qué sea pasecdor de unta yunta de bueyes so quiera, el segundo se sabe qué el poco gando qué queda en supoder es de los herederos del fuiado Don antonir Rocha, y estas tieneu, un paragé concedido, y es enel qué actualmente sehallan los bienies, el tercero ignoro en lo absoluto se tiene alguna caballo ó no, pero en fin ninguno delostres tiene losbienes delaley, comohedieho ni menostienen proposciones para un pedir los rabos de los indios como lo afrecen, pues para eso se necesita midestueamiento de hamlres armadas; bajo esta virtud suplieo á V. se serva tomar inforeiones de persopas fidedignas
18 sabre la clase y munero de bienes de campo qué poseen Jhos denunciantes, y concluido, se sirva devaluermé el espediente pa alegrar lo que á mi derecho conviene.

Jurose, admitiendose en laste papel por falta del sellado.

Angeles, Agosto 20 de 1845.

PEDRO G. CARRILLO.

E. S.

[9. S. D. K.]

Blugo el honor de elevar á muno de V. E. el ante negocio segun se me previené.

V'TE SANCHEZ.

ANGELES, *Agosto* 30 *de* 1845.

No toeando á la paite de Dn. Pedro Carrillo calificar silos [SEAL.] interesados enlá nistanciá congue da principio lste esyediente

obtienen ô no los requisetos legales pura ser atendidos, vuelva alvor alcalde to de esta capital á fin de que haga nuevo traslado al Sor Carrillo para que alegne lo crea que de suderecho con respecto al de nuncio del terreno de los alanios.

PICO.

[10. S. D. K.]

ANGELES, *Agosto* 30 *de* 1845.

Como dispone la superioridad traslado portres dias utiles a D Pedro Carrillo asi decreté, y mandé yo el Juez que subscube segun
19 Drô.

V'TE SANCHEZ.

Assa'd:
Y'GO CORONEL.
LEONARDO COTA.

Señor Juez de 1*a Instancia:*

Pedro C. Carrillo de esla vecuidad ante V. como mejor paresca en derecho me presento, diciendo que como muchas ocasiones no puede uno proveer los contratiempos à que se halla expuesto, y habiendome sido à mi repetidas he encontrado dificultades para del pronto ocupar el terreno de mi propriedad que hoy se me ha denunciado—mas no por esto ha sido mi intencion abandonarlo né le pierde la voluntad, y para el logro de su fundacion creo bien que el superior gobierno usará de la prudencia que le es propria, favoreciendome con su consideracion y portanto concluyo pidiendo que medeante à la Antigua propriedad que por justo titulo adquiere se me señalo un plazo suficiente que medé lugar a fomentarlo, bajo la solemne protesta que cumpliré fielmente y de no huarlo, haya lugar al denuncio gracia [12 S. D. K.] que espero alcansar del Exmo. Sor. Gobernador Jura, &c.

Angeles, Setiembre 5 de 1845.

PEDRO C. CARRILLO.

E. S.

Habiendo cumplido car lo que dispone la superia oridad tenge el honor de poner este espediente en manos de V. E.

V'TE SANCHEZ.

20 [13 S. D. K.]

ANGELES, *Setiembre* 6 *de* 1845.

[SEAL.] Visto el ultimo escrito de la parte de Dn. Pedro Carrillo con que concluye este espediente teniendo por legal el impedimiento que le ha hecho dificil la ocupacion del parage de los alamos segun sa franca confesion, y atendicudo à la suplico que implora del superior gobierno para poderlo fomentar he venido en concederle la proroga de siete meses contados desde hoy para que lo verifique en la intelligencia que si llegado el plazo no hubiere cumplido conforme ahora se ha dispuesto, habra lugar al denuncio por parte de los que representaren yse les adjudicara en propiedad el nominado terreno de los Alamos y Agua Caliente. Peres el gobierno no puede permitir que los terrenos destribuidos capaces de ocuparse, se hallen sin el cultivo que is indispensables.

Hatifique se le à la parte de Dn. Pedro Carrillo la presente disposicion para su intelligencia y devualva este [14, S. D. K.] a los interesados per no haber tenedo lugar en esta vez sa ocurso, Pio Pico, gobernador interino del departamento de los Californias, lo decreti Mandé y firmé day fe.

PIO PICO.

21 ANGELES *a* 27 *de Mayo de* 1846.

[SEAL.] Teniendo presente este gobierno en vitro de las diligencias que obran en este espediente con relacion al demucio que han hecho en 22 de Agosto del año pasado los curdodanos Franc'o R. Lopez, Luis Jordan y Vicente Botello del parage de los alamos y en vista de haber transcurredo mas de los sute meses que en proroga se le concedieron al curedadano Pedro C Carrillo para que lo publara conformé á lo dispuesto por leyes y reglamentos de colonizacion y teniendo presente los perjincios que se causan á la industria del pais por la no ocupacion de los terrenos colonizables; asi como los que recienten los Señores que denomcion este parage por carecer de un terreno en donde puedan desarollar su industria. [15. S. D. K.]

EXMO SOR: Francisco Lopez, Luis Jordan y Vicente Botiller, residentes en esta capital ante V. E. respetuosamente y como mas haya lugar segun derecho nos presentamos diciendo.

Que en virtud de habercele cumplido el plaso de siete meses contados desde el dia seis depp'do Sitiembre que f'a superior disposicion se le notifico á la parte del cuidadano Pedro Carrillo á fin de que en este termino cultivarse el parage de los alamos y agua culiente que le fue demuciado por los que se suscriben conf'ha vemete cinco de Agosto del año anterior y tanto que habiendo faltado, dho Sor. Carrillo
22 tanto al refesido plaso como á la suplica [16 S. K.] que de V. E. imploro pidiendolo le impusiese una proroga considerable que le dicre lugar á cultivado, bajo la inteligencia que cumplira con lo dispuesto por la superioridad segun el ultimo decreto con que concluye el espediente de la materia; y que de no verificarlo, habra lugar al denuncio que por parte de los esponientes se le haria.

En consecuencia de esto A. V. E. pedimos se sirva disponer que conforme á la prevenido por el precetado decreto y de conformidad con la ley de 18 de Agosto de 1824 y reglamentos de 21, de Noviembre de 1828, se nos adjudique en propiedad el nominado terreno en razon de haberse ya cumplido el mencionado plazo y conclinos considerarnos acreedores á el. Por tanto.

A. V. E. Rendidamente suplicamos teuga á bien obsequearnos con su proteccion [17. S. D. K.] esperando de su notoria bondad merced y gracia jurando la necesario y no ser de malicia, &c. Sirviendore admitor esto en papel comen por no haber en este lugar del sello que corresponde.

Angeles, April 8 de 1846.

FRANCISCO LOPEZ.
LUIS JORDAN.

Aruego de Vicente Botiller por no saber formar.
CAYETANO ARENAS.

[18 S. D. K.] Y mantener sus bienes de campo, he venido
23 por las presentes letras en disponer como dispongo que ha lugar al denuncio del parage de los alamos en favor de los Señores Lopez Jordan y Boteller, á quienes se les librará el titulo respectivo con arreglo á las leyas de la materia. Notifiquese a los interesados este decreto para su conociencinto y fines consignientes y á Dn Pedro C. Carrillo para su inteligencio en concepto de no haber cumplido con la amplicacion de tiempo que se le concedio por este gobierno en seis de Setiembre del año anterior.

Pio Pico, gobernador constitucional del departamento de Californias, asi lo mandi dicreto y firmé. Doy fé.

PIO PICO.

JOSÈ MATIAS MORENO, *Scrio Into.*

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office and under my control a portion of the archives of the former Spanish and Mexican Territory or department of Upper California, do hereby certify that the eighteen preceeding and hereunto annexed pages of tracing paper, numbered from one to eighteen inclusive, and each of which is verified by my initials (S D. K.) exhibit true and accurate copies of certain documents on file and forming part of the said archives in this office.

24 In testimony whereof, I have hereunto signed my name, officially, and affixed my private seal, (not having a seal [SEAL.] of office,) at the city of San Francisco, Cal., the fifth day of November, 1852.

(Signed) SAM'L D. KING
Surv. Gen'l Cal.

Filed in office July 10th, 1854.
(Signed) GEO. FISHER, *Sec'y*

25 *Translation of espediente.*

MOST EXCELLENT SIR GOBERNOR: Francisco R. Lopez, Luis Jordan, and Vincente Boteller, Mexicans by birth, and residents of [L. S.] this capital, before your excellency, respectfully and in conformity with the appropriate law, present ourselves, stating that having a considerable number of stock to provide for, and requiring a proper tract of land that our stock may be united in order to increase the same, we are under the precise necessity of imploring the goodness of your excellency to grant to us the tract known by the name of Los Alamos and Agua Caliente, which belongs to the property of Don Pedro Carrillo by just title, which was issued to him by the government of this department; and in consequence of Mr. Carrillo's non-compliance with art. 1st of the corresponding patent according to law, and his not having cultivated the same up to the

present time, we denounce the same as vacant, in which situation it actually is.

Therefore we humbly solicit your excellency to admit my present petition and to make the necessary inquiries, taking into consideration that we require, as we have above stated, the land we claim, as likewise that it will be a benefit to the community and (provide against) the robberies continually committed by the Indian robbers, as likewise to construct a house, plant some fruit vines to subsist on.

Please admit the present on common paper, there being none of the appropriate stamp in this place—a favor which we shall acknowledge, relying on your goodness, mercy, and grace, making the necessary oath not to proceed through malice, &c., &c.

FRANCISCO R. LOPEZ.
LUIS JORDAN.
Signed for Vicente Boteller,
CAYETANO ARENAS.

Angeles, August 21st, 1845.

ANGELES, *August* 21*st*, 1845.

Let this proceed to the first alcalde of this city, that he may summon Dn. Pedro Carrillo, and that this petition be delivered to him, that he may allege what he may deem proper in his rights, in conclusion of which let the same be returned to this government.

PICO.

ANGELES, *August* 22*nd*, 1845.

In conformity with the superior order contained in the marginal decree of this instance, a transcript of the same was issued to Don Pedro Carrillo that he might within three days answer what he may deem proper in his rights.

I, the first alcalde, have thus decreed, ordered, and signed, with my assistants, according to law.

VICENTE SANCHEZ.

Assistant: YGNACIO CORONEL.
Assistant: LEONARDO COTA.

On this day the transcript was issued and handed to P. Carrillo, in conformity with the espediente on this page.

Mr. Judge of first instance:

Pedro C. Carrillo, of this vicinity, as he deems most proper,
27 presents himself before you, saying that in reply to the tran-
cript which your superior disposition has been pleased to remit to me of the espediente promoted by the Señores Francisco Lopez and partners, relative to denouncing the premises called Los Alamos and Agua Caliente, the property of which was adjudicated to me by the superior departmental government, I have to remark that the parties denouncing state that they possess a considerable number of stock, and that they are in want of a tract of land to keep it together. I do not know, Mr. Judge, what this stock consists of, it being public that neither of the three possess the number

of vacas de vientre (cows capable of increasing) which the law requires in order to grant petitions of this nature. Respecting the former, I am up to this day not aware that they own a single yoke of oxen; as to the second, it is known that the small amount of cattle that remains in their possession belongs to the heirs of the late Don Antonio Rocha, and they possess a tract granted to them, and it is the same on which such cattle actually exist. I am ignorant whether there is a house or other on the land or not. But, to conclude, neither of the three persons possess the stock required by law, as I have already alluded to; neither do they possess means to counteract the robberies committed by the Indians, as they offer to do, a party of armed men being required for that purpose; in accordance with which, you please inform yourself with trustworthy persons as to the class and number the parties denouncing pos-
28 sess, which having been done, you will please return to me the espediente, that I may allege what I may deem proper in my rights. I make oath, &c., &c., requesting you to admit the present on this paper, for want of the stamped.

Angeles, August 27th, 1845.

PEDRO C. CARRILLO.

MOST EXCELLENT SIR: I have the honor to transmit to your hands the foregoing, as has been provided.

[L. S.] V'TE SANCHEZ.

Angeles, August 30th, 1845

As it does not become Don Pedro Carrillo to qualify the parties interested in the instance with which this espediente originates, whether they possess or not the legal requisites to entitle them to be heard, let the same be returned to the 1st alcalde of this capital, that he may issue another transcript to Mr. Carrillo, to enable him to allege what he deems proper respecting the denouncing of the tract of Los Alamos.

PICO.

Angeles, August 30th, 1845.

According to the superior disposition transcribed for three days to Don Pedro Carrillo, I, the undersigned judge, have so decreed and ordered, according to law.

V'TE SANCHEZ.

Ass: YG'O CORONEL.
Ass: LEONARDO COTA.

29 *Mr. Judge of 1st instance:*

Pedro C. Carrillo, of this vicinity, before you as in his rights he deems most proper, appears and states that as in many occasions one is not able to foresee the obstacles which one is exposed to, such having placed themselves in my way repeatedly, I have met with difficulties to occupy now the tract I am, which has been this day denounced. It has not been my intention to abandon the same, nor my wish to lose it, for the attainment of which purpose, I do believe that the superior government will use its accustomed prudence, favoring

me with its consideration. I therefore conclude that by means of the ownership which I acquired by just title, a time (space of time) may be fixed, sufficient to give me time to provide for the necessary, under the solemn protest the same shall be strictly fulfilled, and by not complying therewith, denunciation shall take place—a grace I expect to meet with from the most excellent governor. I make oath, &c., &c.

Angeles, Sept. 5th, 1845.

PEDRO C. CARRILLO.

MOST EXCELLENT SIR: Having complied with the disposition of the superiority, I have the honor to place this espediente into the hands of your excellency.

V'TE SANCHEZ.

[L. S.]

ANGELES, *September 6th*, 1845.

Seen the last writing of D'n Pedro Carrillo with which this
30 espediente terminates. Considering the impediment legal that difficulties have opposed his occupation of the tract of Los Alamos according to his frank confession, and granting his petition to the superior government, that he may take his measures, I have come to grant to him a term of seven months, commencing to-day, that he may execute the same with the condition that if, at the expiration of the period, he should not have complied with the present disposition, the denunciation shall take place by the parties who presented themselves, and the tract in question shall be adjudicated to them as property, being the tract of Los Alamos and Agua Caliente, as the government cannot permit that the lands distributed that are capable of being occupied, remain uncultivated which is indispensable.

Let the present disposition be notified to Pedro Carrillo for his intelligence, and let the espediente be returned to the parties interested, their course not having been adopted this time.

Pio Pico, governor ad interim of the department of the Californas, have so decreed, ordered, and signed, which I certify.

PIO PICO.

MOST EXCELLENT SIR: Francisco Lopez, Luis Jordan, and Vicente Boteller, residents of this capital, before your excellency respectfully, as they deem most proper according to law, present themselves and say that the time of seven months, commencing on the 6th day of September last, which was given by superior disposition to the
31 citizen Pedro Carrillo, for the purpose of cultivating the tract of Los Alamos and Agua Caliente which was denounced by the undersigned on the 21st of August last year, having expired, and said Mr. Carrillo having failed to comply with the said time, imploring your excellency to give him sufficient time to cultivate the same, with the understanding that he would comply with the disposition of the superiority in accordance with the last decree which terminates the espediente on the subject, and in case he should not comply with the same, the same might be denounced, which should be done by the parties exposed.

By virtue whereof, we solicit your excellency that you will order that in conformity with the above mentioned, and the decree referred to, and in accordance with the law of 18th August, 1824, and regulations of 21st November, 1828, that the ownership of the tract in question be adjudicated to us.

The term having expired, and considering ourselves entitled thereto, we therefore solicit your excellency to favor us with your protection, relying on your celebrated goodness, mercy, and grace, making the necessary oath, and not proceeding through malice, &c. Be pleased to admit the present on common paper, there being none of the appropriate stamped in this place.

Angeles, April 8th, 1846.

FRANCISCO LOPEZ.
LUIS JORDAN.

Signed for Vicente Botello, who cannot write—
CAYETANO ARENAS.

[L. S.]

32 ANGELES, 27*th May*, 1846.

This government recalling to its memory the denunciations made by the citizens Francisco R. Lopez, Luis Jordan, and Vicente Boteller, on the 20th of August of last year, of the tract of Los Alamos, in accordance with the minute of this espediente, and taking in consideration that the seven months, which time was granted to the citizen Pedro C. Carrillo, to stock the same in conformity with the former dispositions and laws and regulations relating to colonization, and taking in consideration the injury caused to industry of this country by not occupying the lands that are capable of colonization, and whereas those denouncing require a tract to enable them to exhibit their industry and maintain their stock:

I have come, by the present letters, to the following disposition: That the denunciation of the tract of Los Alamos in favor of the Señores Lopez, Jordan, and Boteller, may take place to whom the appropriate title shall be issued in accordance with the laws on the subject.

Let the parties interested be notified of this decree for their government and further ends, and likewise Pedro C. Carrillo for his intelligence.

In consequence of his not having complied with the extension of time which was granted to him by this government on the 6th Sept. last year, Pio Pico, constitutional governor of the department of the Californas, has so ordered, decreed, and signed. I certify.

PIO PICO.

JOSE MATIAS MORENO,
Secretary ad interim.

Filed in office July 10th, 1854.

GEO. FISHER, *Sec'y.*

33 *Document "H. H. No. 1," annexed to the deposition of Abel Stearns.*

INITIALS H. H. No. 1.

Pio Pico, gobernador constitucional del departmento de las Californias:

[SEAL.] Por cuanto los cuidadanos Francisco Lopez, Luis Jordan y Vicente Boteller Mejicanos por nacimiento hau pretendido para su benificio personal y el de sus famileas et terreno conocido bajo el nombre de Los Alamos y Agua Caliente practicadas previamente las averiguaciones con cermentes usaudo de las facultades que me son conferidas á nombre de la Nacion Mejicana le venido por decreto de este dia en concededes el mencionado terreno declaranda les la pro pridad de el por las presentes le tras de conformidad con la ley de 18 de Agosto de 1824, y reglamentos de 21 de Noviembre de 1828 á reserva de la a provacion de la Exma Asamblea Departamenta y bajo las condiciones sigmintes.

1o. Podran cacado sin peyndican las travesias canimos y servidumbres lo disfrutaran libre y esclusivamento dipfratandole aluso q. cultivo que mas le conevuyo.

2o. Solicitaran del juez respectivo les de la pocesion juridica en virtud de este despacho por el cual se demarcaran los linderos en cuyos limites pondran las magoneras necesarias.

3o. El terreno de que se les hace donacion es puramente el de seis sitios de ganado mayor dentio de los luintes del deseño que corre agregado, al espediente. El juez que los posesione lo hará meder lon arreglo á ordenanza, que dando el sobrante que resulte á la
34 nacion para los usos que sean convenentes.

4o. Si contravinera á estas condiciones per deran sa derecho al terreno y será denunciable por otro.

En consecuencia mando que temendore el presente titulo por firme y valedero se tome razon de el en el libro respectivo y se entregue á los interesados para su res guardo y demas fines.

Dado en la ciudad de los angeles en este Papel comun por falta del sella do a vente siete de mayo de mil ochocientos cuarenta y sás.

(Signed) PIO PICO.
(Signed) JOSE MATIAS MORENO.
Scrio Inti'o.

Queda tom ada razon de este superior despacho en el libro respectivo.

Angeles fha at supra.
(Signed) MORENO.

Filed in office October 29th, 1852
(Signed) GEO. FISHER, *Sec'y.*

35 *B, translation of A.*

Pio Pico, constitutional governor of the department of the Californias:

Whereas citizens Francisco Lopez, Luis Jordan, and Vicente Boteller, Mexicans by birth, have petitioned, for their personal benefit and

that of their families, the land known under the name of Los Alamos and Agua Caliente, the proper conditions being previously complied with, in virtue of the faculties which are conferred on me, in the name of the Mexican nation, I hereby grant to them, by decree of this day, the aforesaid, declaring to them the right of ownership, by these present titles, in conformity with the law of the 18th of August, 1824, and the regulations of the 21st of November, 1828, with the reservation of the approbation of the excellent departmental assembly, and under the following conditions:

1st. They may enclose it without prejudice to the crossings, roads, and servitudes. They shall possess it free and exclusively, devoting it to such use and culture as best may suit them.

2d. They shall solicit of the proper judge to give them the juridical possession in virtue of this dispatch, by whom the boundaries shall be marked, upon whose limits they shall place the necessary landmarks.

3d. The land of which donation is made to them is exactly that of six square leagues, (seis sitios de ganado mayor) within the limits of the map which accompanies the espediente. The judge who may give him juridical possession shall cause it to be measured agreeably to ordinance, the surplus that results remaining to the nation
36 for the uses that may be suitable.

4. If they should contravene to these conditions, they shall lose their right to the land, and it shall be denounceable by another.

In consequence, I command, the present title being held as firm and valid, record be made of it in the respective book, and that it be delivered to the interested parties for their safeguard and further ends.

Given in the city of Los Angeles on this common paper, for want of the sealed, this twenty-seventh of May, one thousand eight hundred and forty-six.

PIO PICO.

JOSE MATIAS MORENO,
Secretary ad interim.

Record is made of this superior dispatch in the respective book. Angeles, date as above.

MORENO.

Filed in office October 29th, 1852.

GEO. FISHER,
Secretary.

37 *Conveyance to Agustin Olvera.*

Atodos guiênes las presentes viereu sabed, como Nosatros Francisco Lupez y esposa Maria Antonio Feliz de Lopas vecino sdel condado de los Angeles y estado de California comopaites, primeras, pory eu consideracion á valor recibido lu muestras manos yá questra lustra satisfacion de Agustin Olivera Compaete segunda tambien recino del condado Estado espresados hemos vendido, cedido y traspanado, y por los presentes declaramos vender cedeo y traspasar para sicumpre jamas á favor del referido Agustin Olvera y de sus herederos y suces-

ores todo cuanto derecho puedamos tener enel parage de los alamos situado dentro del condado de Los Angeles y estado mencionado concedido por Don Pio Pico como gobernador de California confecha veinte siete de mayo de mil ochocientos cuarenta y seis á Francisco R. Lopez nuestro hijo ya defunto á Luis Jordan yá Vicente Batiller, por cuya virtud siendo dueños nosotros las partes arriba dichas de una tercera paste del reféndo terreno que se halla indiviso comoherederos legitimos y unicos y ademas enstitudos por nuestro difunto hijo Francisco R. Lopez lu su testamento repetimos que todo cuanto deveho nos pudiera corresponder enel terreno de Los Alamos queda trasposada lu favor de Agustin Olbera y de sus herederos y sucesores lu virtud dela justa compensacion que nos ha hecho; todo lo cual ejecutamos de nuestra libre voluntad y coneutero gusto sin que haya habido de influjo alguna seclusion, violencia, lugaño ni irregularidad de ninguno clase por cuya ra bon podra disponer,
38 Agustin Olvera del mencionade terreno de Los Alamos, como de cosa legitima y bien adguirida pues está libre de todo gravamen, no teniendolo vendedo, donado ni hipotecaslo, ni de ninguna manera obligalo.

Yea puseba de ser ciesto pueda relacionado lu esta escritura y desapoderanos de todo desecho obligamos mestras personas y bienes las de muestros herederos, alvaceas, y legetimos representantes paro que sea cumplido y llevado a puro y debido efecto cuanto aqui se contune. En cuyos testimonio ponemos nuestras nombres y sellos hoy 15 de Octubre del ano de 1852, enla ciudad de Los Angeles condado del mismo nombre y Estado de California.

(Signed) FRANCISCO LOPEZ. [SEAL.]

(Signed) MARIA ANT'A $\underset{\text{her}}{\underset{\text{mark.}}{\times}}$ FELIZ DE LOPEZ. [SEAL.]

Witness:
(Signed) H. B. MYLES.

STATE OF CALIFORNIA, *County of Los Angeles:*

Be it remembered that on this fifteenth day of October, (1852,) in the year of our Lord one thousand eight hundred and fifty-two, before me, Wilson W. Jones, clerk of the county court of Los Angeles county, personally appeared Francisco Lopez, and Maria Antonia, Feliz de Lopez his wife, known to me to be the persons who executed the foregoing document, and described therein, and acknowledged
39 to me that they executed the same freely and voluntarily, and for the uses and purposes therein mentioned. And the said Maria Antonia Feliz being by me examined apart from and without the hearing of her said husband, acknowledged that she had executed the same freely, without fear or compulsion of her said husband, but for the uses and purposes therein mentioned.

As witness my hand and official seal, affixed on this fifteenth day of October, A. D. 1852, at my office in the city of Los Angeles. [SEAL.]

(Signed) WILSON W. JONES, *Clerk*,
p. H. R. MYLES, *Dep'y.*

Received the foregoing document for record on the 18th Jan'y, 1853, at 15 minutes past 10 o'clock a. m.

(Signed) WILSON JONES, *Recorder*,
p. H. R. MYLES, *Dep'ty*.

Recorded the above and foregoing document on the 18th day of January, A. D. 1853, at twenty minutes past nine o'clock p. m., in 1st book of deeds and mortgages, on pages 283 and 284, at the request of Agustin Olvera.

(Signed) WILSON W. JONES, *Recorder*.
p. H. R. MYLES, *Dept'y*.

Filed in office July 10th, 1852.

(Signed) GEO. FISHER, *Sec'y*.

41 B.

Translation of A.

To all whom these presents may come, greeting:

That we, Francisco Lopez, and Maria Antonia Felis de Lopez, his wife, residents of the county of Los Angeles and State of California, as parties of the first part, for and in consideration of value received in our hands, and to our entire satisfaction, from Agustin Olvera, as party of the second part, also a resident of the county and State aforesaid, we have sold, ceded, and transferred, and by these presents we declare to sell, to cede, and to transfer, forever, in favor of the said Agustin Olvera, and of his heirs and successors, whatever right we may have in the tract of *Los Alamos*, situate in the present county of Los Angeles, and State aforesaid, which was conceded by Don Pio Pico, as governor of California, bearing date the twenty-seventh of May, one thousand eight hundred and forty-six, to Francisco R. Lopez, our son, now deceased, and to Luis Jordan, and to Vicente Boteller, in virtue of which, we, the parties aforesaid, being owners of one-third part of the said land, which is found undivided, as legitimate and sole heirs, and also as testamentary heirs of our deceased son. We repeat that whatever right may correspond to us in the land of Los Alamos is hereby transferred in favor of Agustin Olvera, and of his heirs and successors, in virtue of the just compensation that he has made to us, all of which we execute of our free will and entire pleasure, without our being influenced by seduction, violence, or fraud, nor irregularity in any manner.

For which reason Agustin Olvera shall dispose of the aforesaid
42 land of Los Alamos as of a legitimate thing, and properly acquired, as it is free from all burthen, it not being sold, donated, nor mortgaged. And in proof of being certain whatever is expressed in this writing, and to dispossess ourselves of all right, we pledge our persons and property, those of our heirs and successors, executors and legal representatives, that it may be fulfilled and put into due, and effect whatever is therein contained.

In testimony of which, we fix our names and seals on this 15th of Oct., of the year 1852, at the city of Los Angeles, county of the same name, and State of California.

[SEAL.] FRANCISCO LOPEZ.

her
MARIA ANTONIA + FELIZ DE LOPEZ.
mark.

Witness: H. B. MYLES.

Filed in office July 10th, 1854.

GEO. FISHER, *Secretary.*

43 "H. H., No. 2."

Document H. H. No. 2, annexed to the deposition of Abel Stearns.

[SEAL.] SECRETARIA DE: En el denuncio intentado P. V. V. en 21 de Agosto del anó pasado del parage de los alamos de Don Pedro Catarino Carrillo ha recaido el superior decreto siguiente. "Angeles 24 de Mayo de 1846. Quiendo presente este gobierno en vista de las diligencias que obran en este espediente con relacion al denuncio que han hecho en 21 de Agosto del anó pasado los ciudadanos, Francisco Lopez Luis Jordan y Vicente Boteller del parage de los alamos, y en vista de haber trascurrido mas de los siete meses que en poroga se le concidieron al ciudadano Pedro C. Carrillo para que lo poblara conformé a lo dispuesto por leyes y reglamentos de colonizacion y teniendo presente las perjuicios que se careaen á la industria del pais por la no ocupacion de los terrenos colonizables asi como los que recienten los sonores que denuncian este parage por carecer de un terreno en donde puedan desarrollar su industria y mantener susbienes de campor heveindo por las presentes letras en disponer como dispongo que ha lugar al denuncio del parage de los alamos en favor de las Señores Lopez Jordan y Boteller á quienes se les librara el titulo respectivo con arreglo á las leyes de la materia. Notifi que que se á los interesados este decreto para su conocimiento y fines consiguientes y á Don Pedro C. Carrillo para intelligencia en concepto de no haber
44 cumplido con la amplicacion de tiempo se le concedio por este gobierno en seis de Setiembre del año anterior Pio Pico, gobernador constitucional del departmiento de Californias. Asi lo mando decreto y firmo doy fé.

PIO PICO.
JOSE MATIAS MORENO,
Secretario Interino.

Cuya trascricion hago á V. V. para los fines que les convengan. Dios y libertad Angeles 2nd de Mayo de 1846.

(Signed) JOSE MATIAS MORENO, *Sc'ro Int'o.*

Señores DON FRANCISCO LOPEZ,
DON LUIS JORDAN, y
DON VICENTE BOTELLER.

Filed in office October 29th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

45 D.

Translation of C.

In the denouncement attempted by you on the 21st of August of the year past of the tract of Los Alamos of Dn. Pedro C. Carrillo, the following superior decree has been issued:

ANGELES, *May 27th*, 1846.

This government, considering in view of the proceedings that exist in this espediente in relation to the denunciation that was made on the 21st of August of last year by citizens Francisco Lopez, Luis Jordan, and Vicente Boteller, of the tract of Los Alamos, and in view of his having delayed beyond the seven months that in extension were granted to citizen Pedro C. Carrillo, in order that he might settle it agreeably to what was required by the laws and regulations in colonization, and in consideration of the prejudices that are caused to the industry of the country by the non-occupation of the land suitable for colonization; as also that the aforesaid persons who denounce this tract need the same, because not having any land where they may be able to enjoy their industry and to maintain their stock, I have thought proper, by these present letters, to decree that there is justice in the denunciation of the tract of Los Alamos in favor of Señores Lopez, Jordan, and Boteller, to whom the respective title shall be issued, agreeably to the laws on the subject.

Let the interested parties be notified of this decree for their recognition and further ends, and to Don Pedro C. Carrillo for his intelligence, in view of his not having complied with the extension of time that was granted to him by this government on the sixth of September of the preceeding year.

Pio Pico, constitutional governor of the department of the
46 Californias, thus did command, decree, and sign, which I certify.

PIO PICO.

JOSE MATIAS MORENO,
Secretary ad interim.

Which transcript I send to you for the ends that may be suitable.

JOSÉ MATIAS MORENO,
Secretary ad interim.

Filed in office October 29th, 1852.

GEO. FISHER, *Secretary.*

47 *Deed from Luis Jordan to J. L. Brent.*

A todos las presentes vieren subeda que yo Luis Jordan por y en consideracion de quinietos pesos con todo á mi mano pagade por el Señor D. J. L. Brent, he vendido cedido y traspasado, y por estos, vendo, cido y traspaso al dicho D. J. L. Brent la mitad de todo el

derecho y titulo que tengo á mi terreno situado en el ciudad de Los Angels y conocido por el nombre de "los Alamos y Agua Caliente" (el dicho titulo y derecho siendo ador leguas y la dicha metad vendido por estas siendo una legua) para tener y para haber al uso y benificio del dicho Brent sus herederos y sucesores para siempre. Jamas.

El terreno vendido por este documento es el mismo que fue concedido por Don Pio Pico gobernador de las Californias confecha 2a Mayo de 1856, a Francisco Lopez, á mi y a Vicente Botillor y declaro que mi dicho derecho no esta en agluado ni empenado de nuizun modo.

En cuyo testimonio ponga mi mano y sello á este documento hoy 27 Octobre 1852 en la cuidad y condado de los Angeles.

(Signed) LUIS JORDAN. [SEE.]

Sellado firmado y entregado en presencia de.

(Signed) AGUSTIN OLVERA.
(") JAMES T. OVERSHED.

STATE OF CALIFORNIA,
County of Los Angeles:

On this the twenty-seventh day of October, in the year of our Lord one thousand eight hundred and fifty-two, personally appeared
48 before me, Wilson W. Jones, county clerk in and for the county of Los Angeles, Luis Jordan, who I know to be the person described in and who executed the within and foregoing deed of conveyance, and acknowledged to me that he executed the said deed of conveyance freely and voluntarily, without any undue influence, but for the *the* uses and purposes therein mentioned.

In testimony whereof, I have hereunto subscribed my name, as clerk of said county, and affixed the seal of my office, the day and date above written.
SEAL.]

(Signed) WILSON W. JONES, *Clerk*,
p. H. R. MYLES, *Dep'ty.*

Received the within and foregoing document for record on the 27th day of October, A. D. 1852, at fifteen minutes past 12 o'clock p. m. Recorded the same October the 28th, A. D. 1852, at ten minutes past eleven o'clock a. m., in the book of deeds, on page 243 and 244, at the request of J. Lancaster Brent, esq.

(Signed) WILSON W. JONES, *Recorder*,
By H. R. MYLES, *Dep.*

Filed in office July 10th, 1854.

(Signed) GEO. FISHER, *Secretary.*

49 *Translation of deed.*

All who the presents may see: Know that I, Luis Jordan, for and in consideration of five hundred dollars, to me cash in hand paid by J. L. Brent, have sold, ceded, and transferred, and by the present

do sell, cede, and transfer, to said J. L. Brent the one-half of all the right and title which I have to a tract situated in the county of Los Angeles, and known by the name of Los Alamos and Agua Caliente, said right and title being to two leagues, and the said one-half sold by the present being one league: To have and to hold to the use and benefit of said Brent, his heirs and successors forever. The tract sold by this instrument is the same which was granted by Don Pio Pico, governor of the Californias, bearing date 27th May, 1846, to Francisco Lopez, to myself, and to Vicente Boteller; and I declare that my said right is neither alienated or mortgaged in any manner.

In testimony whereof, I set my hand and seal to this document this 27th October, 1852, in the city and county of Los Angeles.

LUIS JORDAN. [SEAL.]

Sealed, signed, and delivered in presence of—
JAMES P. OVERSTREET.

Filed in office July 10th, 1854.

GEO. FISHER, *Secretary.*

51 *Opinion of the board.*

AGUSTIN OLVERA *et al.* *vs.* THE UNITED STATES. } For the place called Los Alamos y Agua Caliente, in Los Angeles county, containing six square leagues of land.

The petitioners claim the title to the land through a grant, which is given in evidence, made by Governor Pio Pico to Francisco Lopez, Vicente Botello, and Luis Jordan, dated May 27th, 1846.

Two of the present petitioners are original grantees; the third holds the interest of the other grantee, and the fourth claims under a conveyance from said Jordan to him of one-half of his interest in the premises.

The grantees never lived on the premises, made any improvements, or cultivated thereon. One of the witnesses states that Francisco Lopez went to the place and took tools with him to establish a rancho, but in consequence of the war, at the time Frémont came, he left his tools with Indians and went away, and on account of the sickness of his father, and other engagements, did not go to the place again.

No other effort seems to have been made by the grantees to comply with the conditions of inhabitancy or cultivation. It is claimed that the breaking out of the war in California, which had been commenced by the act of Mexico, the conquest of the country which immediately succeeded, and the subsequent cession of the territory, not only excused the grantees from the performance of the conditions of settlement or cultivation, but rendered compliance impossible, and gave them a right to the land free from conditions.

52 An objection of a different character is also presented in this case, and as the latter must prove fatal to the claim here set up, I do not deem it necessary to decide or discuss the former.

There is no segregation of the land, either by description of the

title-papers defining the limits of the premises granted, and which may be traced by surveyor, or by actual measurement on the ground.

No juridical possession of the premises was given. The land granted was precisely six square leagues, and a map attached to the espediente was referred to as exhibiting the tract of land within which it was to be located by the proper officers.

The map delineates a much larger tract of land within which this grant was to be located, and its measurement was needed to fix the grantee's right to any specific portion of it. This they failed to obtain, and it is now too late to remedy the evil. Congress only can give relief in such cases.

It is not among the powers delegated to this commission to give boundaries to incipient grants which have none, or to confirm new privileges to locate a given quantity of land within specified limits. When the party interested has failed to obtain in the manner specified in his grant the required segregation, the claim is not within the rules which authorize a confirmation. Rejected.

Filed in office August 15th, 1854.

GEO. FISHER, *Secretary.*

53 *Decree.*

AGUSTIN OLVERA *et al.*
vs.
THE UNITED STATES.

In this cause, on hearing the proofs and allegations, it is adjudged by the commission that the claim of the said petitioners is not valid, and it is therefore decreed that their application for a confirmation thereof be denied.

ALPHEUS FELCH,
R. AUG. THOMPSON,
S. B. FARWELL, *Comm'rs.*

Filed in office Aug. 15th, 1854.

GEO. FISHER, *Secretary.*

And it appearing to the satisfaction of the board that the land hereby adjudicated is situated in the southern district of California, it is hereby ordered that two transcripts of the proceedings and of the decision in this case, and of the papers and evidence upon which the same are founded, be made out and duly certified by the secretary; one of which transcripts shall be filed with the clerk of the United States district court for the southern district of California, and the other be transmitted to the Attorney General of the United States.

55 OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing forty-five pages, numbered from 1 to 45, both inclusive, to contain a true, correct, and full transcript of the record of the proceedings and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses, upon

which the same is founded, on file in this office, in case No. 428 on the docket of the said board, wherein Agustin Olvera *et al.* are the claimants against the United States for the place known by the name of Los Alamos y Agua Caliente.

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, [SEAL.] this fourteenth day of December, A. D. 1854, and of the independence of the United States of America the seventy-ninth.

GEO. FISHER, *Sec'y.*

Filed December 19th, 1854.

C. E. CARR, *Cl'k.*

56 *Notice of appeal.*

In the U. S. district court for the southern district of California.

AGUSTIN OLVERA, LUIS JORDAN, VICENTE BOTELLER, AND JOSEPH L. BRENT, appellants, *vs* THE UNITED STATES, appellees. } No. 183.

Appeal from the final decision of the board of land commissioners to ascertain and settle the private land claims in the State of California, taken on the 19th Dec., 1854, by the said board having filed with the clerk of said court a certified transcript of their proceedings and decision of the papers and evidence upon which the same are founded in the said cause, being No. 428 on the docket of said board.

Notice is hereby given that the above-named appellants, claimants before said board, in a claim for a tract of land called Los Alamos y Agua Caliente, situated in said southern district, filed before said board Octo. 29th, 1852, being on its docket No. 428, will prosecute the appeal herein from the final decision of said board, entered on 15th August, 1854, against and adverse to said claimants and appellants.

J. LANCASTER BRENT,
Att'y for Appellants.

Filed April 25th, 1855.

C. E. CARR, *Cl'k.*

58 *Petition for review.*

In the district court of the United States for the southern district of California.

AGUSTIN OLVERA, LUIS JORDAN, VICENTE BOTELLER, AND J. LANCASTER BRENT, appellants, *vs.* THE UNITED STATES, appellees. } Case No. 183.—Land commission No. 428.—Claim for "Los Alamos y Agua Caliente."

To the honorable I. S. K. Ogier, judge of the United States district court in and for the southern district of California:

The petition of Agustin Olvera, Luis Jordan, Vicente Boteller, and J. Lancaster Brent respectfully sheweth that on the 27th day of May,

1846, Pio Pico, then constitutional governor of the department of the Californias, by virtue of the authority in him by law vested, executed and delivered to Francisco Lopez, Luis Jordan, and Vicente Boteller a deed of grant bearing date as aforesaid, whereby he granted to them all that certain tract of land known by the name of "Los Alamos y Agua Caliente," and situate in the county of Los Angeles, and in the said southern district of California, more particularly described in a petition filed by your petitioners on the 29th day of October, 1852, before the United States land commission to ascertain and settle the private land claims in California, and the papers and proceedings thereupon had, which are hereby specially referred to; and that after the said 27th day of May, 1846, the said grantees entered upon and took possession of the said granted premises.

And your petitioners further state that in the year 1851 the said Francisco Lopez, one of the grantees, died, without wife or
59 lawful issue, leaving his father, Francisco Lopez, and his mother, Maria Antonia Felis, his heirs and next of kin, who, afterwards, to wit, on the 15th day of October, 1852, by their deed executed and delivered for a valuable consideration therein mentioned, sold and conveyed their right in the above-granted premises to your petitioner, Agustin Olvera.

And your petitioners further state that on the 27th day of October, 1852, the above-named Luis Jordan, one of the said grantees, by his deed executed and delivered for a valuable consideration therein mentioned, sold and conveyed one-half of his right in the said granted premises unto your petitioner, J. Lancaster Brent.

And your petitioners further state that on the 29th day of October, 1852, they filed their petition, claiming the said premises before the said land commissioners, while sitting as a board, together with documentary evidence and the testimony of witnesses; and that afterwards, to wit, on the 15th day of August, 1854, the said board proceeded to decide upon the validity of said claim, and rejected the same.

That afterwards, to wit, on the 19th day of December, 1854, an appeal was taken, the said board having filed in the office of the clerk of your honorable court a certified transcript of their proceedings and final decision, and of the papers and evidence upon which the same were founded. And that afterwards, to wit, on the 25th day of May, 1855, your said petitioners filed in the office of the said clerk a notice of their intention to prosecute said appeal. Wherefore your
60 petitioners pray that the decision of the said commissioners may be reversed, and their title to the said premises may be confirmed, and for general relief and for costs. And as in duty, etc.

J. LANCASTER BRENT,
Att'y for Pet's.

Filed Sept. 19th, 1855.

C. E. CARR, *Cl'k*,
By JOHN W. ROSS, *Dep'ty.*

Summons.

UNITED STATES OF AMERICA,
Southern District of California, ss:

The President of the United States to P. Ord, U. S. dist. att'y for the south. dist. of California, greeting:

Take notice that a petition, a copy of which is herewith served upon you, has been filed against the *the* United States in the district court of the United States in and for the southern district of California, on the 19th day of September, in the year of our Lord one thousand eight hundred and fifty-five, at the city and county of Los Angeles, in said district, by Agustin Olvera, Luis Jordan, Vicente Boteller, and J. Lancaster Brent, praying the court to review the de-
61 cision of the U. S land commissioners rejecting their claim to a tract of land called "Los Alamos y Agua Caliente;" and that you are required to appear at said court in said city, within ten days after the service hereof if served on you within the county of Los Angeles, and within twenty days if served on you in the county of San Diego or San Bernardino, and within forty days if served on you in any other county of said State, exclusive of the day of service, and answer said petition, or the petitioner will apply to the court for the relief demanded therein.

In witness whereof, I have hereunto set my hand and affixed the seal of said court, at the city of Los Angeles, this 15th day of December, A. D. 1855.
[SEAL.]

C. E. CARR, *Cl'k.*

Received Dec. 17th, 1855.

EDWARD HUNTER, *U. S. Marshal,*
Pr. M. L. GOODMAN, *Deputy.*

I served this summons, together with a certified copy of the petition, upon P. Ord, U. S. att'y for south'n dist. of Cal'a, by delivering to him personally a true copy of the same, at Los Angeles, in the southern district of California, on the 26th day of Dec., A. D. 1855.

EDWARD HUNTER, *U. S. Marshal,*
Pr. M. L. GOODMAN, *Deputy.*

Sworn to and subscribed before me, 26th December, 1858.

C. E. CARR, *Cl'k,*
By O. MORGAN, *Dep'ty.*

62 *Answer.*

In the district court of the United States for the southern district of California. Hon. Isaac S. K. Ogier, judge.

AUGUSTIN OLVERA, LUIS JORDAN, VICENTE BOTELLER, & J. LANCASTER BRENT, appellants,
vs.
THE UNITED STATES, appellees.
} No. 1833.—Transcript No. 428.

The answer of Pacificus Ord, attorney of the United States for the southern district of California, for and in behalf of the United States,

to the petition of Agustin Olvera, Luis Jordan, Vicente Boteller, and J. Lancaster Brent, for a review and reversal of the decision of the United States land commissioners to ascertain and settle the private land claims in California, rejecting their claim to a certain tract of land known by the name of "Los Alamos y Agua Caliente," says that he denies all and singular each and every allegation in the said petition contained. And, further, this respondent denies generally the validity of the alleged title of the said claimants to the said tract of land. And the said respondent prays that this hon'l court will affirm the decision of the said commissioners in said case, and decree the said alleged title to be invalid, and for general relief.

P. ORD,
Attorney of the United States for the Southern District of California.

Filed Jan'y 4th, 1856.

C. E. CARR, *Clerk.*

64 *Order for additional testimony.*

In the district court of the United States in and for the southern district of California.

AGUSTIN OLVERA, LUIS JORDAN, VICENTE BOTELLER, and J. LANCASTER BRENT, appellants.	Case No. 183. Transcript 428.
vs.	"Los Alamos y
THE UNITED STATES, appellees.	Agua Caliente."

On motion of J. Lancaster Brent, counsel for appellants,

Ordered, That additional testimony be taken by either party in the above cause.

Filed Octo. 8th, 1855.

C. E. CARR, *Cl'k,*
By J. W. ROSS, *Dep.*

66 *Deposition of Andres Pico.*

Depositions of Andres Pico, taken before C. Sims, United States commissioner for the district of California, at the United States court-house in the city of Los Angeles, on Monday, the eighth day of December, 1856, at 12 o'clock m., by consent and agreement of parties, to be used in testimony on behalf of the claimant in a certain cause now pending in the U. S. district court for the southern district of California, being case No. 183 on docket of said court, wherein Augustin Olvera *et. al.* are appellants and claimants and the United States are appellees.

Present: Pacificus Ord, U. S. att'y, on behalf of the appellee, and J. L. Brent, att'y for appellants.

Andres Pico, being duly sworn deposes and says:

Quest What is your name, age, and place of residence?

Ans. My name is Andres Pico; I am 45 years of age; and reside in Los Angeles, State of California.

Quest. Were you acquainted with Francisco R. Lopez, one of the grantees of lands claimed herein? If yea, state any thing you know relative to his attempting to occupy, or occupying the said land.

Ans. I know him. In 1846 Francisco R. Lopez arrived at the mission of San Fernando, where I was then living, with some few cattle, and said that he was going to occupy Los Alamos. He went towards the Alamos with his cattle, and after some days came back, and he told me that his servants would not remain on that land for fear of the Indians. This was before the war.

67 Quest. Is Francisco R. Lopez alive or dead? If he is dead, state what relations he left.

Ans. He is dead; he died childless and without a wife, being a widower. He was the only child of Francisco Lopez, and of his wife, Maria Antonia Feliz, both of whom he left living.

Quest. When did Francisco Lopez die?

Ans. He died in the year 1851.

ANDRES PICO.

Sworn and subscribed to before me this 8th day of Dec. 1854.

C. SIMS,
U. S. Commissioner for Dists. of California.

STATE OF CALIFORNIA,
County of Los Angeles:

I, C. Sims, United States commissioner for the district of California, do hereby certify that the foregoing deposition of Andres Pico was taken before me, in accordance with the request and agreement of said attorneys, at the United States court-house in the city of Los Angeles, State of California; that the said Andres Pico, was by me duly sworn according to law as a witness in said cause in the caption of this deposition mentioned, and after being so sworn, his testimony was by me reduced to writing, in his presence and that of the said attorneys, and after having been by me carefully read to him, and by him corrected as he desired, was by him signed in my presence.

[SEAL.] In testimony whereof, I have hereto set my hand and affixed my private seal, (there being no official seal,) this 8th day of December, A. D. 1856.

C. SIMS,
U. States Com'r for the Districts of California.

Filed Dec. 8th, 1856.

C. SIMS, *Cl'k.*

Translation of certificate to map, page 8 *of transcript, marked H. H.,*

68 In the United States district court, southern district of California.

AUGUSTIN OLVERA *et al.*, appellants, *vs.* THE UNITED STATES, appellees. } Case No. 183.—"Los Alamos y Agua Caliente."

No. 3.

SECRETARY'S OFFICE OF THE GOVERNMENT
OF THE DEP. OF THE CALIFORNIAS.

The undersigned, secretary ad interim of the government of the department of the Californias, certifies that the map which is shown opposite is a copy of the original in existence in the secretary's office of my charge.

JOSÉ MATIAS MORENO,
Sec'y ad int.

Translation of espediente, from page 10 *to page* 17 *of transcript,* 1846.

Espediente promovido by Don Francisco R. Lopez and associates, denouncing the tract of land known by the name of Alamos y Agua Caliente, year 1845, No. 560.

69

{ Seal of Depart'l Government }

ANGELES, *August* 21, 1845. Pass to the 1st alcalde of this city, in order that making citation of the party, Don Pedro Carillo, this petition may be delivered to him, to the end that he may allege what pertains to his rights; and, being concluded, return to the government.

PICO.

MOST EXCELLENT SIR GOVERNOR: Francisco R. Lopez, Luis Jordan, and Vicente Boteller, Mexicans by birth, and resident in this capital, respectfully, and according as place in law may to us belong, present ourselves to your excellency, representing that in virtue of having a considerable quantity of stock to take care of, and finding ourselves in immediate need of an available tract, in order that our property can remain together and increase in future, it is of the utmost necessity to us to implore the goodness of your excellency to the end that you may grant us the tract of land known by the name of Los Alamos y Agua Caliente, which belongs to Don Pedro Carrillo, by just title issued to him by the government of this department, and in virtue of Señor Carrillo having failed to comply with the first article of the corresponding dispatch, as the law provides; and as, up to date, he has not cultivated it, we denounce it as vacant, which is actually its condition.

Therefore we humbly pray your excellency to grant our petition, and that the proper examinations may proceed, observing that we are in need of the place for which we apply, as we have above set forth, as, also, that it will be a general benefit by preventing

70 robberies on the ranchos that the Indian thieves continually prejudice; to proceed to build a house and plant fruit trees for subsistence.

Excusing this being presented on common paper, there being none in this place of the proper stamp—a favor for which we shall live grateful, receiving from your well-known goodness favor and grace; making the necessary oath, and it not being of malice, etc.

Angeles, August 21, 1845.

FRAN'CO R. LOPEZ.
LUIS JORDAN.
At request of Vicente Botello.
CAYETANO ARENAS.

ANGELES, *August* 22, 1845.

Agreeably to what is directed by the superior authority in the decree in the margin of this application, let a copy be presented to Don Pedro Carrillo, that he may answer within three days what may pertain to his right.

I, the 1st judge, so decreed, ordered, and subscribed, with the assisting witnesses, according to law.

VICENTE SANCHEZ.

Ass't: YGNACIO CORONEL.
Ass't: LEONARDO COTA.

On the same day the copy was forwarded, and the espediente, on two sheets, was delivered to Señor Carillo.

71 (Map of Los Almos y Agua Caliente.)

SEÑOR JUDGE OF FIRST INSTANCE: I, Pedro C. Carillo, a resident of this city, before you, with due respect, and under the terms most suitable in law, appear, representing that in answer to the copy, which by superior direction you have been pleased to forward to me, of the espediente, promoted by the Señores Francisco Lopez and associates, relative to denouncing against me the tract of land called Alamos y Agua Caliente, which was assigned me in fee, I ought to represent that said denouncers say they have a considerable quantity of live stock, and that they are in need of an available tract of land where it can remain together. I do not know, señor judge, of what description this live stock may be, for it is notorious that neither of the three is owner of the number of breeding cows that the law requires in order to be admitted in petitions of this nature; for, as regards the first, I do not know, up to date, that he is the possessor of even one yoke of oxen; as to the second, it is well known that the small quantity of cattle remaining in his possession belongs to the heirs of the late Don Antonio Rocha, and they already hold granted to them a tract of land, and it is there that these cattle actually are; as to the third, I am entirely ignorant whether he has a horse or not; but, in fine, neither of the three has the property of the law, as I have said; still less have they the means to check the depredations
72 of the Indians, as they offer to do, as for that a detachment of armed men is necessary.

Wherefore I pray that you will be pleased to inform yourself, from trustworthy persons, concerning the description and number of live stock that the said denouncers possess; and this being concluded, that you will be pleased to return the espediente, to allege what may belong to my right. I make oath, etc., admitting me on this common paper, for want of stamped.

Angeles, August 27th, 1845.

PEDRO C. CARRILLO.

EXCELLENT SIR: I have the honor to elevate to the hand of your excellency the foregoing matter, as I am directed.

VICENTE SANCHEZ.

{ Seal of the Departmental Government. }

ANGELES, *August 30th,* 1845.

As it is not the province of the party, Don Pedro Carillo, to report as to whether the parties interested in the application with which this espediente commences, have or have not the legal requisites to be heard, return this to the señor first alcalde of this capital, to the end that he may make a new transcript for Señor Carrillo, so that he may allege what he may believe to be his rights with respect to the denouncement of the tract of Los Alamos.

PICO.

ANGELES, *August* 30, 1845.

73 As the superior authority directs, passed over to Don Pedro Carrillo for three working days. I, the judge who subscribes, so decreed and ordered according to law.

VICENTE SANCHEZ.

Ass't: YGNACIO CORONEL.
Ass't: LEONARDO COTA.

Señor judge of first instance:

I, Pedro C. Carillo, of this place, present myself before you as I may best appear, and say that as in many cases, one cannot foresee the disappointments to which he may be exposed, and these having been frequent in my case, I have met with difficulties in taking speedy occupation of the tract of land belonging to me, which has now been denounced against me; but it has not been my intention on this account to abandon it, nor have I ceased to want it; and in order to accomplish the establishment of the rancho, I well believe that the superior government will use the prudence for which it is noted, favoring me with its consideration. And I therefore conclude, praying that on account of the former ownership which by a just title I acquired, it will assign me a term sufficient to give me time to improve the lands, under the solemn protest that I will comply faithfully, or in case of non-performance, let there be place for the denouncement; favor which I hope to obtain from the most excellent señor governor. I make oath, etc.

Angeles, September 5, 1845.

PEDRO C. CARRILLO.

74 EXCELLENT SIR: Having complied with what is directed by the superior authority, I have the honor to place this expediente in the hands of your excellency.

VICENTE SANCHEZ.

{ Seal of the Departmental Government. } ANGELES, *September 6th*, 1845.

Having been seen the last written on the part of Don Pedro Carrillo, with which this expediente concludes, the impediment which has made the occupation of the lands of Los Alamos difficult for him, according to his frank confession, being held for legal, and attending to the prayer which he addresses to the superior government, in order that he may be able to improve said lands, I have directed to grant him the extension of seven months, reckoned from this date, so that he may accomplish it, with the understanding that if at the expiration of the term he shall not have complied with what has now been directed, there shall be place for the denouncement on the part of whomever may make a representation, and the aforesaid tract of Los Alamos y Agua Caliente, shall be assigned them in fee; for the government cannot permit assigned lands, capable of being occupied, to remain without the improvement which is indispensable.

Let notice of this present decision be given to the party, Don Pedro Carrillo, for his understanding, and return this to the partys interested, their application not having been entertained at this time.

75 I, Pio Pico, governor ad interim of the Californias, so decreed, ordered, and signed Attest.

PIO PICO.

MOST EXCELLENT SIR: We, Francisco Lopez, Luis Jordan, and Vicente Boteller, residents of this capital, before your excellency, respectfully, and as most there may be place according to law, present ourselves, saying:

That in virtue of the term of seven months, reckoned from the 6th day of September last, having elapsed, which by superior direction was notified to the party, citizen Pedro Carrillo, to the end that within seven months he should improve the lands of Los Almos y Agua Caliente, which were denounced against him by the undersigned, under date of August 21st, of the last year; and said Pedro Carrillo having failed in performance in the aforesaid term, and in the prayer which he implored of your excellency, beseeching you that you would assign him a considerable extension, to give him an opportunity of improving it, under the understanding that he should comply with what was directed by the superior authority, according to the last decree with which the espediente of the matter concludes; and that in case of non-performance, there should be place for the denouncement which might be made against him on the part of those making an exposure.

In consequence whereof, we beg your excellency to be pleased to order, in accordance with the directions of the aforesaid decree, and in conformity with the law of the 18th of August, 1824, and the regulation of the 21st November, 1828, that said tract of land

76 may be assigned us in fee, by reason of said term having now elapsed, and we being considered preferred claimants.

Therefore we humbly pray your excellency to see fit to favor us with your protection, hoping from your well-known goodness favor and grace, making the necessary oath that it is not of malice, etc.

Being pleased to admit this on common paper, there being none of the proper stamp in this place.

Angeles, April 8th, 1846.

FRANCISCO LOPEZ.
LUIS JORDAN.

At request of Vicente Boteller, as he does not know how to sign,
CAYETANO ARENAS.

ANGELES, May 27th, 1846.

{ Seal of the Departmental Government. }

This government bearing in mind, in virtue of the proceedings which appear in this espediente in relation to the denouncement, that the citizens Francisco R. Lopez, Luis Jordan, and Vicente Boteller, made on the 21st of August last of the tract of Los Alamos, and in view of more than the seven months having elapsed, which were granted to the citizen, Pedro C. Carrillo, that he might stock it in conformity to the laws and regulations of colonization, and bearing in mind the evils caused to the industry of the country from the colonization lands not being occupied, as also those which the gentleman denouncing this tract suffer, for want of a tract of land on which to bestow their industry and

77 keep their stock, I have come by these presents to direct, as I do, that there is place for the denouncement of the tract of Los Alamos in favor of Señores Lopez, Jordan, and Boteller, to whom the proper title shall issue in conformity with the laws on the matter.

Let this decree be notified to the interested parties for their understanding and the ends consequent, and to Don Pedro C. Carrillo for his understanding, in the conception of his not having complied with the extension of time which was granted to him by this government on the 6th of September of last year.

Pio Pico, constitutional governor of the department of the Californias, so ordered, decreed and signed.

Attest :

PIO PICO.
JOSÉ MATIAS MORENO,
Sec. ad into.

Filed Dec. 13th, 1856.

C. SIMS, *Clerk.*

78 *Decree.*

In the district court of the United States for the southern district of California, December term, A. D. 1856.

AGUSTIN OLVERA *et al.*, appellants, *vs.* THE UNITED STATES, appellees. } No. 183. Transcript 428. "Los Alamos y Agua Caliente."

This cause coming on to be heard on appeal from the decision of the United States board of land commissioners to ascertain and settle the private land claims in the State of California, under an act of Congress approved March 3d, 1851, on a transcript of the decision and proceedings of said board, and of the papers and evidence upon which said decision was founded, and on additional evidence taken before this court; and it appearing to the court that said transcript and the notice of appeal have been duly filed according to law, and counsel for he respective parties having been heard—

It is ordered, adjudged, and decreed that the decision of said board of commissioners be, and the same hereby is, in all things reversed.

And it is further adjudged and decreed that the claim of the appellants to the lands called "Los Alamos y Agua Caliente," claimed in this case, is good and valid, and the same are hereby confirmed to them to the extent of six (6) square leagues, and no more, within the boundaries described in the map attached to and forming part of the espediente, and referred to in the grant, to wit: to the north,

79 the "Lomeria de Castec;" to the east, a "Lomeria and Chamiso" and the "Pinal de Tomo;" to the south, a "Lomeria" and Chamiso," and to the west, a "Lomeria pastora," or low grassy hills, reference being had to the aforesaid map for a more particular description.

Provided that should there be a less quantity than six square leagues of land within said boundaries, then confirmation is hereby made of such less quantity.

Thus done and signed in open court this 15th day of December, 1856.

ISAAC S. K. OGIER,
U. S. Dist. Judge for the S D'ct of California.

Filed this 15th Dec., 1856.

C. SIMS, *Clerk*,
Pr. J. H. COLEMAN, *Dep'ty.*

80 *Appeal.*

U. S. dist. court, south'n dist. Cal., December term, 1856.

AGUSTIN OLVERA *et al.* *vs.* THE UNITED STATES. } No. 183.

FEB'Y 24, A. D. 1857.

On motion of P. Ord, U. S. dist. att'y, it is ordered that an appeal be allowed the United States herein.

81 *New appeal.*

United States district court, southern district Cal'a, December term, A. D. 1861.

DECEMBER 9TH, A. D. 1861.

AGUSTIN OLVERA *et al.*, app'ees, } No. 183, D. C.
vs. } No. 428, L. C.
THE UNITED STATES, appe'ts. } "Los Alimos y Agua Caliente."

And now comes J. R. Gitchell, esq., appointed at the request of the court to represent the U. S. herein, (there being no U. S. dist atty. present,) and moved the court that a new appeal be allowed the U. S. in this case to the Supreme Court of the U. S. from the order and decree of this court heretofore rendered.

Which motion, being heard and understood by the court, is granted.

82 UNITED STATES DISTRICT COURT, SOUTH'N DIST. CAL'A,
Clerk's Office, Monterey.

I, John C. Wheeler, clerk of the United States district court for the southern district of California, do hereby certify the foregoing eighty-one pages, numbered from 1 to 81, both inclusive, to contain a full, true, and correct transcript of the record of the proceedings, and of the decision of the said court, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in my office in case No. 183 on the docket of said court, wherein Agustin Olvera *et al.* are the claimants against the United States, for the place known by the name of Los Alamos y Agua Caliente.

In witness whereof, I have hereunto set my hand and affixed [L. S.] the seal of said court, at Monterey, Cal'a, this the 15th day of April, A. D. 1862.

JOHN O. WHEELER,
Cl'k U. S. Dist. Court, South. Dist. Cala.

Filed Sept. 20, 1862.